

## REMARKS

Applicants respectfully request reconsideration and allowance of the above-identified application. Claims 1-38 remain pending, wherein independent claims 1, 30, 31, 33, and 37 have been amended and claim 38 is new.<sup>1</sup>

Initially, Applicants note with appreciation the Examiner's Acknowledgment of Applicants' claim for priority to parent application 08/682,832 now issued as U.S. Patent No. 5,938,729 filed July 12, 1996. Further, Applicants note with appreciation the Examiner's consideration of the documents submitted with the Information Disclosure Statement (IDS) filed on May 15, 2001.

The Office Action rejects pending independent claims (1, 30, 31, 33, and 37) under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 5,748,896 to Daly et al. ("*Daly*").<sup>2</sup> The Office Action rejects the remaining dependent claims as allegedly anticipated under 35 U.S.C. § 102(e) by *Daly* or as allegedly being unpatentable under 35 U.S.C. § 103(a) over *Daly* in view of either U.S. Patent No. 5,230,051 to Quan ("*Quan*") or U.S. Patent No. 5,809,161 to Auty et al. ("*Auty*").<sup>3</sup> For at least the following reasons, Applicants respectfully traverse these grounds of rejection.

Embodiments of Applicants' invention, as claimed for example in independent method claim 1, relate to monitoring server performance using a polling server. The system advantageously reduces polling time by decreasing the number of queries generated to monitor

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<sup>1</sup> Support for the amendments may be found throughout the Specification including the following sections: pg. 3, ll. 9-10; pg. 4, ll. 2-5; pg. 11, ll. 21-23; pg. 15, ll. 22-24; pg. 19, ll. 23-24; pg. 20, ll. 1-2; and pg. 13, ll. 12-24. Accordingly, Applicants respectfully submit that no new matter has been added.

<sup>2</sup> Applicants respectfully note that the header of the anticipation rejection citing *Daly* only references claims 1-10; however, the body of the rejection discusses other various claims including all of the independent claims. Applicants assume that such exclusion of all of the claims in the header of this ground of rejection is a typographical error. Accordingly, Applicants will respond to the rejection as if the heading had included all of the independent claims. Nevertheless, if Applicants' assumption is incorrect, Applicants respectfully request that the next communication make clear what claims are being rejected under what grounds so that Applicants have a full and fair opportunity to respond to such allegations.

Applicants further note that the Office Action mistakenly references several of the claims listed. For example, the Office Action states that claim 34 is an independent claim, when in fact claim 34 depends from claim 33. Further, the Office Action rejects claim 31 in both paragraphs 1 and 17; however, omits discussing the rejection of claim 32 whose language appears to be cited in paragraph 17. Applicants assume that these are just typographical errors, but kindly note them for the record.

<sup>3</sup> Although the prior art status of the cited references are not being challenged at this time, Applicants reserve the right to do so in the future. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status or asserted teachings of the art of record.

the performance of a plurality of various servers provided by the monitored server system. The method of claim 1 is from the perspective of the polling server system and includes the steps of: generating a single query requesting a compilation of information about the performance of a plurality of different services offered by a monitored server system; transmitting the single query from the polling server system to the monitored server system; and receiving one reply that includes the compilation of information about the performance of the plurality of the different services offered by the monitored server system. By way of example only, some of the plurality of different services offered by a monitored server system may include a directory service, a message store service, a message transfer agent service, etc. As can be seen, by including the compilation of information about the performance of the plurality of different services offered by the monitored server system into one reply, the polling time is advantageously reduced since the information is not transmitted or received in a piecemeal fashion. The other independent claims contain similar language for coverage of different aspects and embodiments.

Applicants respectfully submit that *Daly* does not anticipate Applicants' claims for at least the reason *Daly* does not disclose each and every element of Applicants' claimed invention.<sup>4</sup> For example, *Daly* does not disclose generating a single query requesting a compilation of information about the performance of a plurality of different services offered by a monitored server system; transmitting the single query from the polling server system to the monitored server system; and receiving one reply that includes the compilation of information about the performance of the plurality of the different services offered by the monitored server system, without receiving the information about the performance of the plurality of the different services in a piecemeal fashion, as recited, *inter alia*, in independent claim 1.

*Daly* discloses methods and systems for managing network services on a plurality of servers in a computer network. Although *Daly* provides a mechanism for retrieving status data about instantiations of various service components (e.g., file service, print service, email service, etc.), *Daly* does not disclose that the information about the performance of the different services is compiled into one reply from a monitored server system. In fact, *Daly* at most discloses

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<sup>4</sup> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131. That is, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." During examination, the pending claims are given their broadest reasonable interpretation, i.e., they are interpreted as broadly as their terms reasonably allow, consistent with the specification. MPEP §§ 2111 & 2111.01.

sending a request to a plurality of monitored servers for obtaining status information about instantiations for a single service.

For example, as described in col. 15, l. 43 through col. 16, l. 26, the server manager component invokes a particular service object (e.g., file service object), which is used to communicate with various servers over the network in a protocol specific to the service entity (in this example, a protocol specific for obtaining information about instantiations of the file service component). Although *Daly* discloses in col. 16, l. 27 through col. 17, l. 11, the use of agents to compile a list of data for the status of network service instantiations within a zone, the list of data is a compilation of information for a single service entity—not a compilation of information for a plurality of different services. In fact, col. 16, ll. 20-23 of *Daly* indicates that the additional service objects for obtaining status information about instantiations of a service component are invoked separately as order within the component repository. Since *Daly*'s mechanism for obtaining status information about instantiations of the various service components occurs in a piecemeal fashion, and not as a compilation within one reply, *Daly* actually “teaches away” from Applicants’ independent claims.<sup>5</sup> Accordingly, Applicants respectfully submit that *Daly* does not anticipate independent claims 1.

As previously mentioned, independent claims 30, 31, 33, and 37 recite various methods and computer-readable mediums with elements similar to those described above with regard to claim 1. As such, Applicants respectfully submit that these independent claims are also not anticipated by *Daly* for at least those reasons cited above with regard to claim 1. Accordingly, Applicants respectfully request withdrawal of this ground of rejection.

Based on at least the forgoing reasons, Applicants respectfully submit that the cited prior art fails to anticipate or otherwise make obvious Applicants’ invention as claimed for example, in independent claims 1, 30, 31, 33, and 37. Applicants note for the record that the remarks above render the remaining rejections of record for the independent and dependent claims moot, and thus addressing individual rejections or assertions with respect to the teachings of the cited art is unnecessary at the present time, but may be undertaken in future if necessary or desirable, and Applicants reserve the right to do so.

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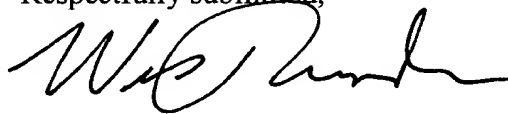
<sup>5</sup> MPEP § 2141.02 states that the cited references must be considered as a whole, including those sections that “teach away” from the claimed invention. (Citation omitted).

Application No. 09/855,445  
Amendment A dated January 6, 2006  
Reply to Office Action of October 6, 2005

All objections and rejections having been addressed, Applicants respectfully submit that the present application is in condition for allowance, and notice to this effect is earnestly solicited. Should any question arise in connection with this application, or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application, the undersigned respectfully requests that he be contacted at +1.801.533.9800.

Dated this 6<sup>th</sup> day of January, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Rick D. Nydegger', written in a cursive style.

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